

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WILLIAM EWING,

Plaintiff,

Case No. 6:18-cv-01626-MK
ORDER

v.

CITY OF TOLEDO, CRAIG MARTIN,
in his individual capacity, BILLIE
JO SMITH, in her individual capacity,
PAUL OSTERLUND, in his individual
capacity, DAVID JAMES ROBINSON,
in his individual capacity,

Defendants,

AIKEN, District Judge.

This Court previously stayed consideration of Magistrate Judge Mustafa Kasubhai's Findings and Recommendation ("F&R") (doc. 27) recommending that defendant's motion to dismiss (doc. 11) be GRANTED in part and DENIED pending supplemental briefing on Or. Rev. Stat. § 659A.199. That briefing has been completed, and Magistrate Judge Kasubhai has issued a second F&R (doc. 37) recommending that this case be STAYED until 1) this Court receives notification from the parties that the Oregon Supreme Court has issued an opinion after its review of


the Court of Appeals decision in *Burley v. Clackamas County*, 298 Or. App. 462 (2019); 2) the parties notify the Court that the Oregon Supreme Court declined review of the Court of Appeals decision; or 3) the parties notify the Court that the Burley defendant ultimately declined to petition the Oregon Supreme Court for review.

This matter is now before this Court. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). Plaintiff has filed timely objections (doc. 42) to the F&R, and defendants have filed a timely response. (doc. 43). When either party objects to any portion of a magistrate judge's F&R, the district court must make a *de novo* determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

Having reviewed the record, the Court finds no error in the F&R. The Court finds that it is in the best interest of this case and its companion case to issue a stay for the reasons outlined in the F&R. Thus, the Court adopts Magistrate Judge Kasubhai's F&R (doc. 37) in its entirety. Consideration of the pending motions shall be administratively terminated until the stay is lifted.

IT IS SO ORDERED.

Dated this 17 day of January 2020.



Ann Aiken
United States District Judge